

MARK J. BENNETT 2672
Attorney General of Hawaii

JAMES E. HALVORSON 5457
NELSON Y. NABETA 3004
CLAIRE W.S. CHINN 4495
Deputy Attorneys General
Department of the Attorney
General, State of Hawaii
235 S. Beretania Street, 15th Floor
Honolulu, Hawaii 96813
Telephone: (808) 587-2900
Facsimile: (808) 587-2965
E-Mail: Nelson.Y.Nabeta@hawaii.gov

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ROBERT SHEREZ,

Plaintiff,

vs.

STATE OF HAWAII, DEPARTMENT
OF EDUCATION; PATRICIA
HAMAMOTO, Superintendent of
Hawai'i Schools; MEREDITH
MAEDA, Principal of Castle High
School; SARA GRONNER OR
GRONNA, Vice Principal of Castle
High School,

Defendants.

CIVIL NO. 04-00390 JMS-KSC

DEFENDANTS' OBJECTIONS TO
PLAINTIFF'S PROPOSED JURY
INSTRUCTIONS FILED ON
MARCH 27, 2007; CERTIFICATE
OF SERVICE

Trial Date: March 28, 2007
Judge: Hon. J. Michael Seabright

DEFENDANTS' OBJECTIONS TO PLAINTIFFS'
PROPOSED JURY INSTRUCTIONS

OBJECTION TO JURY INSTRUCTION NO. 22:

The proposed instruction is cumulative and incorporates Proposed Joint Instruction No. 7 (which is based on the Court's Instruction No. 10).

OBJECTION TO JURY INSTRUCTION NO. 23:

The proposed instruction is cumulative and incorporates Proposed Joint Instruction No. 8 (which is based on the Court's Instruction No. 11).

OBJECTION TO JURY INSTRUCTION NO. 24:

The proposed instruction is cumulative to Proposed Joint Instruction No. 23.

OBJECTION TO JURY INSTRUCTION NO. 26:

The proposed instruction is cumulative to Defendants' Proposed Supplemental Instruction No. 3 (which follows the Ninth Circuit Model Jury Instructions 12.1A & B).

OBJECTION TO JURY INSTRUCTION NO. 27:

The proposed instruction pertains to a claim for a denial of a full time teacher position that falls outside the matters pled in the administrative charge of discrimination and retaliation and the complaint in this case.

OBJECTION TO JURY INSTRUCTION NO. 28:

The proposed instruction is based on a claim for hostile work environment. The Court had previously ruled that this legal theory not applicable to this case.

OBJECTION TO JURY INSTRUCTION NO. 29:

The proposed instruction is not based on any facts relevant to the Plaintiff's claims nor based on any facts to be presented to the jury for its deliberations. The defense urges that the Defendants' Proposed Supplemental Instruction No. 4 (which follows the Ninth Circuit Model Jury Instructions 12.3A) be adopted instead.

OBJECTION TO JURY INSTRUCTION NO. 30:

The proposed instruction is based on a claim for hostile work environment. The Court had previously ruled that this legal theory not applicable to this case. Instead, the defense urges that the Proposed Joint Instruction Nos. 10A & 10B (which is based on the Court's Instruction No. 17) be adopted instead.

OBJECTION TO JURY INSTRUCTION NO. 31:

The proposed instruction is cumulative to Defendants' Proposed Supplemental Instruction No. 13 which covers the issue of compensatory damages.

OBJECTION TO JURY INSTRUCTION NO. 32:

The proposed instruction is argumentative and confusing. The defense urges that the Ninth Circuit Model Jury Instructions 7.3, be adopted instead.

OBJECTION TO JURY INSTRUCTION NO. 33:

The proposed instruction is cumulative to Defendants' Proposed Supplemental Instruction No. 13 which covers the issue of compensatory damages.

OBJECTION TO JURY INSTRUCTION NO. 34:

The proposed instruction is not based on any facts relevant to the Plaintiff's claims nor based on any facts to be presented to the jury for its deliberations. The proposed instruction is also confusing and argumentative.

OBJECTION TO JURY INSTRUCTION NO. 35:

The proposed instruction is cumulative to Defendants' Proposed Supplemental Instruction No. 14 which covers the issue of punitive damages (which follows the Ninth Circuit Model Jury Instructions 7.5).

OBJECTION TO JURY INSTRUCTION NO. 38:

The proposed instruction is cumulative to Proposed Joint Instruction Nos. 12 & 13 (which is based on the Court's Instruction Nos. 20 & 21).

OBJECTION TO JURY INSTRUCTION NO. 40:

The proposed instruction is confusing as to the intent requirement because it does not distinguish between the various claims and the different Defendants.

OBJECTION TO JURY INSTRUCTION NO. 41:

The proposed instruction is improper and inapplicable.

OBJECTION TO JURY INSTRUCTION NO. 42:

The proposed instruction is cumulative to Proposed Joint Instruction No. 17 (which is based on Section 378-2(3), Hawaii Revised Statutes) and is argumentative.

OBJECTION TO JURY INSTRUCTION NO. 43:

The proposed instruction is cumulative to Proposed Joint Instruction Nos. 20, 21 & 22 (which are based on 42 U.S.C. § 1983).

OBJECTION TO JURY INSTRUCTION NO. 44:

The proposed instruction reflects facts not stipulated and is cumulative to Defendants' Proposed Supplemental Instruction Nos. 11 & 12.

DATED: Honolulu, Hawai'i, March 29, 2007.

/s/NELSON Y. NABETA

NELSON Y. NABETA
Deputy Attorney General

Attorney for Defendants